

REMARKS

The following remarks are submitted to be fully responsive to the Official Action dated July 21, 2006. It is further submitted that this response is timely filed within the three-month shortened-statutory period as extended by the one-month extension of time submitted herewith. Should any additional fees be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

In the Official Action, claim 14 is objected to. Claim 14 is thus amended to replace “preformed” with “performed.” Withdrawal of the rejection is respectfully requested.

In paragraph 3 of the Official Action claims 10-16 and 19 are rejected under 35 USC 102(e) as being anticipated by US Patent No. 6,505,059 to Kollias et al. In response, independent claim 10 is amended to recite the subject matter of dependent claim 17, which is not rejected as anticipated by Kollias et al. Claim 17 is thus cancelled and claim 18 is amended for consistency. For at least this reason, the Kollias et al. anticipation rejection of claim 10 and the dependent claims thereof is believed overcome and withdrawal of this rejection is respectively requested.

In paragraph 4 of the Official Action claims 10-19 are rejected under 35 USC 102(e) as being anticipated by US Patent No. 6,175,752 to Say et al. Independent claim 10 has now been amended to recite the subject matter of dependent claim 17 and this amendment is believed to distinguish the subject matter of claim 10 from the Say et al. reference.

More specifically, amended claim 10 now recites the steps of measuring according to a predetermined schedule, comparing the measurements to a reference pattern, administering insulin in response to the comparison, and modifying the predetermined schedule subsequent to administering insulin. In contrast, the relied upon portion of the Say et al. reference (i.e., Column 43, Lines 13-20) teaches only processing and/or transmitting data at a faster rate when a condition is indicated such as a high or low level of analyte. Say et al. does not disclose, teach, or otherwise suggest modifying a measurement schedule subsequent to administering insulin as claimed. Claim 10 is thus believed to be distinct from the Say et al. reference and withdrawal of the Say et al. anticipation rejection is believed appropriate and is respectfully requested.

In paragraph 6 of the Official Action claims 10 and 20 are rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,540,675 to Aceti et al. in view of US Patent No. 6,175,752 to Say et al. Independent claim 10 has now been amended to recite the subject matter of dependent claim 17, which has not been rejected as unpatentable over the combination of the Aceti et al. and Say et al. references. Because the subject matter of claim 17 now recited in independent claim 10 is not disclosed in the Say et al. reference, any combination with the Aceti et al. reference would be deficient with respect to the claimed aspect of modifying the schedule after administering insulin. The obviousness rejection of claims 10 and 20 is therefore believed overcome, withdrawal of which is respectively requested.

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance, which allowance is earnestly solicited. The Examiner is invited to contact the undersigned, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present patent application.

Respectfully Submitted,

Dated: November 21, 2006

By:



Kevin J. Hubbard, Reg. No. 50,717
Customer No. 33072
Phone: 651-275-9813
Facsimile: 651-351-2954

#30811